

SUBMIT PROPOSALS TO: PURCHASING SERVICES 2725 JUDGE FRAN JAMIESON WAY, BLDG. C, 3rd FLOOR, SUITE C-303 VIERA, FL. 32940		 PROPOSAL INVITATION Proposer Acknowledgment		
PURCHASING AGENT: April Chapman		PHONE (321) 617-7390	AN EQUAL OPPORTUNITY EMPLOYER	FLORIDA TAX EXEMPT #85-8012621749C-1 FEDERAL TAX EXEMPT #59-6000523
PROPOSAL SPECS. MAY BE PICKED UP AT: 2725 Judge Fran Jamieson Way, Bldg. C, Third Floor, Suite C303, Viera, FL 32940				
MAILING DATE: February 25, 2010	PROPOSAL TITLE: Continuing A&E Services - CDBG	PROPOSAL NUMBER P-5-10-16	PROPOSAL OPENING DATE & TIME: March 24, 2010 @ 3:30 pm	
PRE PROPOSAL DATE, TIME AND LOCATION: ☐ Mandatory ☐ Non-Mandatory N/A			PROPOSALS RECEIVED AFTER ABOVE DATE AND TIME WILL NOT BE ACCEPTED	
PROPOSER NAME/ADDRESS		VENDOR MUST COMPLETE THIS AREA AND RETURN FORM. NOTARIZATION ON PG.3 OF FORM IS REQUIRED. If returning as a "no proposal" state reason: _____ FEDERAL EMPLOYER IDENTIFICATION NUMBER OR S.S NUMBER: _____		
TELEPHONE NUMBER/TOLL FREE NUMBER:		X AUTHORIZED SIGNATURE (MANUAL) _____ TYPED NAME _____ TITLE _____ DATE _____		
I certify that this proposal is made without prior understanding, agreement, or connections with any corporation, firm or person submitting a proposal for the same materials, supplies or equipment, and is in all respects fair and without collusion or fraud. I agree to abide by all conditions of this proposal and certify that I am authorized to sign this proposal for the proposer. In submitting a proposal to the County of Brevard the proposer offers and agrees that if the proposal is accepted, the proposer will convey, sell, assign or transfer to the County of Brevard all rights, title, and interest in and to all causes of action it may now or hereafter acquire under the Anti-trust laws of the United States and the State of Florida for price fixing relating to the particular commodities or services purchased or acquired by the County of Brevard. At the County's discretion, such assignment shall be made and become effective at the time the County tenders final payment to the proposer.				

THIS FORM MUST BE COMPLETED AND RETURNED WITH YOUR PROPOSAL

GENERAL CONDITIONS

1. **SUBMISSION OF PROPOSALS:** All proposals shall be submitted in a sealed envelope. The proposal number, title, and opening date shall be clearly displayed on the outside of the sealed envelope. The delivery of said proposal to Purchasing Services prior to the specified opening date and time is solely and strictly the responsibility of the proposer. Any proposals received in Purchasing after the specified date and time will not be accepted.
2. **EXECUTION OF PROPOSAL:** Proposal must contain a manual signature of authorized representative in the space(s) provided. Proposals must be typed or printed in ink. Use of erasable ink is not permitted. All corrections made by proposer to any proposal entry must be initialed. The company name and F.E.I.D. number shall appear in the space(s) provided.
3. **PROPOSAL OPENING:** Proposal opening shall be public on the date and time specified. Proposal must be submitted on forms provided by the County. No other forms will be accepted. Telephone and telegraph proposals will not be considered. No proposal may be modified after opening. No proposal may be withdrawn after opening for a period of thirty (30) days unless otherwise specified.
4. **PROPOSAL TABULATIONS:** Any proposer wishing to receive a copy of the proposal tabulations is required to enclose a stamped, self-addressed envelope with proposal response.
5. **CLARIFICATION/CORRECTION OF PROPOSAL ENTRY:** The County of Brevard reserves the right to allow for the clarification of questionable entries and for the correction of OBVIOUS MISTAKES.
6. **INTERPRETATION:** No interpretation of the meaning of the specifications, or other contract documents will be made orally to any proposer. Every request for such interpretation must be in writing, addressed to Purchasing Services at 2725 Judge Fran Jamieson Way, Suite C303, Viera, FL 32940; or faxed to the attention of the Purchasing Agent, at (321) 617-7391 or (321) 637-5302. To be given consideration, such requests must be received at least five (5) days prior to the date fixed for the opening of the proposal. Any and all such interpretation and supplemental instructions will be in the form of a written addendum, which, if issued will be sent to all prospective proposers at the respective addresses furnished for such purposes. Failure of any proposer to receive any such addendum or interpretation shall not relieve said proposer from any obligation under his proposal as submitted. All addenda so issued shall become part of the contract documents, whether or not the successful proposer received a copy of such addendum, it being understood that all proposers are responsible to verify that they have received any such addenda prior to submitting their proposal.
7. **EEO STATEMENT:** Vendors must ensure that employees and applicants for employment are not discriminated against for reasons of race, color, age, religion, sex, national origin, or handicapped status. Minority and female-owned businesses are encouraged to participate. Brevard County is an equal opportunity employer.
8. **PRICING:** Firm prices shall be proposed and include FOB DESTINATION, all packing, handling, fuel surcharges and delivery, unless otherwise indicated to any point within the County of Brevard to a secure area or inside delivery.

9. **ADDITIONAL TERMS & CONDITIONS:** The County of Brevard reserves the right to reject proposals containing any additional terms or conditions not specifically requested in the original conditions and specifications.
10. **TAXES:** The County of Brevard is exempt from Federal Excise Taxes and all sales taxes.
11. **DISCOUNTS:** All discounts EXCEPT THOSE FOR PROMPT PAYMENT shall be considered in determining the lowest net cost for proposal evaluation purposes.
12. **MEETS SPECIFICATIONS:** All equipment and accessories furnished under these specifications shall be new, the latest model in current production, and shall be of good quality, workmanship and material. The proposer represents that all equipment offered under this specifications shall meet or exceed the minimum requirements specified. Delivery specifications shall be strictly adhered to. The proposer shall be responsible for performing the work necessary to meet County standards in a safe, neat, good and workmanlike manner.
13. **BRAND NAME OR EQUAL:** If items called for by this invitation have been identified in the specifications by a "Brand Name OR EQUAL" description, such identification is intended to be descriptive, but not restrictive, and is to indicate the quality and characteristics of products that will be acceptable. Proposals offering "equal" products will be considered for award if such products are clearly identified in the bid and are determined by the County to meet fully the salient characteristics requirements listed in the specifications.

Unless the proposer clearly indicates in his proposal that he is offering an "equal" product, the proposal shall be considered as offering the same brand name product referenced in the specifications.

If the proposer proposes to furnish an "equal" product, the brand name if any, or the product to be furnished shall be inserted in the space provided or such product shall be otherwise clearly identified. The evaluation of proposals and the determination as to equality of the product offered shall be the responsibility of the County and will be based on information furnished by the proposer. Purchasing Services is not responsible for locating or securing any information which is not identified in the proposal and reasonably available to Purchasing Services. To ensure that sufficient information is available the proposer shall furnish as a part of the proposal all descriptive material necessary for Purchasing Services to determine whether the product offered meets the salient characteristics required by the specifications and establish exactly what the proposer proposes to furnish and what the County would be binding itself to purchase by making an award.

14. **SILENCE OF SPECIFICATIONS:** The apparent silence of the specifications and any supplemental specifications as to any details or the omission from same of any detailed description concerning any point, shall be regarded as meaning that only the best commercial practices are to prevail and only materials of first quality be provided. All interpretations of this specification shall be made upon the basis of this statement.
15. **ASSIGNMENT:** Any purchase order issued pursuant to this proposal and the moneys which may become due hereunder are not assignable except with the prior written approval of the Purchasing Manager.
16. **INDEMNIFICATION:** The successful proposer agrees to indemnify and hold harmless the County and their employees from all claims, losses and expenses, including attorneys' fees, arising out of or resulting from the performance, failure in the performance of, or defect in, the products or services to be contracted, provided such claim, damage, loss or expense (1) is attributable to bodily injury, sickness, disease, death, or personal injury, or to property damage, including loss of use resulting therefrom, and (2) is caused in whole or in part by any negligent act or omission of the vendor, any subcontractor or any of their employees, or arises from a job-related injury. The successful proposer acknowledges adequate consideration for this indemnification provision.
17. **PATENTS AND ROYALTIES:** The proposer, without exception shall indemnify and save harmless the County of Brevard and its employees from liability of any nature of kind including cost and expenses for or on account of any copyrighted, patented, or unpatented invention, process, or article manufactured or used in the performance of the contract, including its use by the County of Brevard. If the proposer uses any design, device, or materials covered by letters, patent or copyright, it is mutually agreed and understood without exception that the proposal prices shall include all royalties or cost arising from the use of such design, device, or materials in any involvement in the work.
18. **TRAINING:** If specified, supplier(s) may be required at the convenience of the County, to provide employees training in the operation and maintenance of any items(s) purchased from this proposal.
19. **ACCEPTANCE:** Items may be tested for compliance with specification. Items delivered not conforming to specifications may be rejected and returned at vendor's expense. Those items not delivered as per delivery date in proposal and/or purchase order may be purchased on the open market. Any increase in cost may be charged against the vendor. Any violations of these stipulations may also result in the vendor name being removed from the proposal list and the vendor disqualified from doing business with the County of Brevard.
20. **SAFETY WARRANTY:** The selling dealer, distributor, supplier, and manufacturer shall be responsible for having complied with all Federal, State and local standards, regulations, and laws concerning the equipment specified and the use thereof, applicable and effective on the date of manufacture including safety and environmental standards as apply to both private industry and governmental agencies.
21. **WARRANTY:** The proposer agrees that, unless otherwise specified, the supplies and/or services furnished under this proposal shall be covered by the most favorable commercial warranty the proposer gives to any customer for comparable quantities of such supplies and/or services and that the rights and remedies provided herein are in addition to and do not limit any rights afforded to the County of Brevard by any other provision of this proposal.
22. **AWARDS:** As the best interest of the County may require, the right is reserved to make award(s) to the most responsible bidder/proposer, by individual items, group of items, all or none, or a combination thereof, on a geographical basis and/or on a countywide basis with one or more suppliers; to reject any and all proposals or waive any minor irregularity or technicality in bids received. Proposers are cautioned to make no assumptions unless their proposal has been evaluated as being responsive and qualified. All awards made as a result of this proposal shall conform to applicable ordinances of the County of Brevard. The Board may return, for full credit, any unused items received which fail to meet the Board's performance standards. Brevard County reserves the right to cancel an awarded proposal upon due cause, i. e. vendor misrepresentation, vendor negligence, non-performance, etc. via written notice.
23. Unless otherwise noted in the proposal document, vendors shall submit one proposal only.
24. **DEFINITIONS:**
COUNTY - The term COUNTY herein refers to the County of Brevard, Florida, and its duly authorized representatives.
Due Cause - An applicable reason affecting and concerning the ability and fitness of the contractor(s) to perform to the specifications and requirements of the contract.
PROPOSER - The term PROPOSER used herein refers to the dealer/manufacturer/business organization submitting a proposal to the County in response to this invitation.
VENDOR - The term VENDOR used herein refers to any dealer/manufacturer/business organization that will be awarded a contract pursuant to the terms, conditions and quotations of the proposal.
USING AGENCY - The term USING AGENCY used herein refers to any department, division, agency, commission, board, committee, authority or other unit in the County Government using supplies or procuring contractual services as provided for in the Purchasing Ordinance of the County of Brevard.
HEAVY DUTY - The item(s) to which the term HEAVY DUTY is applied shall exceed the usual quality and/or capacity supplied with standard production equipment and shall be able to withstand unusual strain, exposure, temperature, wear and use.
QUALIFIED BIDDER OR PROPOSER - The best bidder or proposer who has the capability in all respects to fully perform the bid or RFP requirements, and has the financial stability, honesty, integrity, skill, business judgment, experience, facilities, and reliability necessary to assure good faith performance of the contract, as determined by reference to the Contractor's Qualification Statement, evaluations by County staff of the bidder or proposer or its subcontractors' past performance for the Board, and any other information required by Board policies.
RESPONSIVE BIDDER OR PROPOSER - A bidder or proposer who has submitted a bid or proposal which conforms in all respects to the requirements of the bid package or request for proposal, including, but not limited to, submission of the bid or proposal on required forms with all required information, signatures, and notarizations at the place and time specified.
25. **CONFLICT OF INTEREST:** The award hereunder is subject to provisions of State Statutes and County Ordinance. All Proposers must disclose with their proposal the name of any officer, director, or agent who is also an employee of Brevard County. Further, all proposers must disclose the name of any County employee who owns, directly or indirectly, any interest in the proposer's firm or any of its branches.
26. **PURCHASING AGREEMENTS WITH OTHER GOVERNMENT AGENCIES:** This proposal may be expanded to include other governmental agencies provided a cooperative Purchasing Agreement exists or an Interlocal Agreement for joint purchasing exists between Brevard County and the other public agency. Each political entity will be responsible for execution of its own requirements with the awarded vendor.
27. **DRUG FREE WORKPLACE:** Whenever two or more bids/ proposals which are equal with respect to price, quality, and service are received by Brevard County for the procurement of commodities or contractual services, a bid/ proposal received from a business that has implemented a drug free workplace program (per Florida Statutes Section 287.087) shall be given preference in the award process.
28. **LOBBYING STATEMENT:** All firms are hereby placed on notice the County Commission and staff shall not be contracted about this Proposal. Firms and their agents are hereby placed on notice that they are not to contact members of the County Commission or staff (with the exception of designated liaison). Public meetings and public deliberations of the Selection Committee are the only acceptable forum for the discussion of merits of products/services requested by the Request of Proposal; and written correspondence in regard to Proposals may be submitted to the County Manager. Each Proposal will have one non-voting staff member designated who will serve as the liaison. Failure to adhere to these requirements could result in Board action to disqualify your firm from consideration of award.
29. **PUBLIC ENTITY CRIMES:** All proposers are hereby placed on notice that a person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a proposal on a contract to provide any goods or services to a public entity, may not submit a proposal on a contract with a public entity for the construction or repair of a public building or public work, may not submit proposals on leases of real property to a public entity, may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with a public entity, and may not transact business with any public entity in excess of the threshold amount provided in s. 287.017 for CATEGORY TWO (currently \$25,000) for a period of thirty six (36) months from the date of being placed on the convicted vendor list.
30. **DISCRIMINATION:** Any entity or affiliate who has been placed on the discriminatory vendor list may not submit a proposal on a contract to provide goods or services to a public entity may not submit a proposal on a contract with a public entity for the construction or repair of a public building or public work, may not submit bids on leases or real property to a public entity, may not award or perform work as a contractor, supplier, subcontractor, or consult with any public entity, and may not transact business with any public entity.
31. **LICENSE/CERTIFICATIONS:** The successful vendor will be required to secure, at its expense, the proper business tax receipt license and/or any other license/certification required of the applicable service/work being performed. Proof of license and/or certification may be required prior to bid/ proposal award. The proposer shall fully comply with all federal and state laws, county and municipal ordinances and regulations in any manner affecting the performance of the work. The proposer shall state its occupation license number and expiration date.
32. **ERRORS:** In the event of extension error(s), the unit price will prevail. In the event of addition error(s), the extended totals will prevail. In either case, the proposer's total offer will be adjusted accordingly.
33. **CANCELLATION AND RE-INSURANCE:** If any insurance should be canceled or changed by the insurance expiring during the period of this proposal award, the vendor shall be responsible for securing other acceptable insurance to provide the coverage specified in the proposal to maintain continuous coverage during the life of the award.
34. **INCURRED COST:** Brevard County is not liable for any cost incurred by any vendor prior to an award. Costs for developing a response to this request for proposal are entirely the obligation of the proposer and shall not be chargeable in any manner to Brevard County.
35. **MATERIALS/SUPPLIES:** No materials or supplies for the work shall be purchased by the vendor or by any sub-contractor subject to any chattel mortgage or under a conditional sale or other agreement by which an interest is retained by the seller.
36. **SUBCONTRACTORS:** The vendor shall be fully responsible for all acts and omissions of vendor's sub-contractors and of persons and organizations directly or indirectly employed by them and of persons and organizations for whose acts and omissions of persons directly employed by him.
37. **VERBAL INSTRUCTIONS:** No negotiations, decisions, or actions shall be initiated or executed by the vendor as a result of any discussions with any County employee. Only those communications which are in writing from an authorized County representative may be considered. Only written communications from vendors which are assigned by a person designated as authorized to bind the company will be recognized by the County as duly authorized expressions on behalf of the company.
38. **FAX:** Proposals which are received by FAX are not acceptable and will be rejected.
39. **LITIGATION VENUE:** All litigation shall take place either in the State Courts of Florida, wherein venue shall lie in Brevard County, Florida; or in the Federal Courts, wherein venue shall lie in the Middle District in and for the State of Florida. The vendor expressly waives venue in any other location.
40. **ADDITION, DELETION OR MODIFICATION OF SERVICES:** The County reserves the right at its sole discretion to increase, decrease, or delete any portion of this agreement/contract at any time without cause, and if such right is exercised by the County, the total fee shall be reduced by a prorata basis. If work has already been accomplished on the portion of the contract to be increased, decreased, or deleted, the contractor shall be paid for the correct portion on the basis of the estimated percentage agreed upon by the County, the contractor, and the contract manager upon completion of such portion.

41. **CONTRACT TERMINATION:** The contract resulting from this proposal shall commence upon issuance and acceptance of the fully executed contract. The County user agency shall issue orders against the contract on an as needed basis. The contract may be canceled by the vendor, for good cause, upon ninety (90) days prior written notice. The County retains the right to terminate the contract, in part or in its entirety, with or without good cause, upon thirty (30) days prior written notice or as stated herein. In the event of termination by either party as provided herein, the awarded vendor shall be paid for services performed through the date of termination.
42. **PROPOSER RESPONSIBILITIES:** Proposers, by submitting a proposal, certify that it understands all planning, coordinating, and implementation of the described services shall be done through personal contact between the proposer and the contract manager, and that telephone contact and mail correspondence may, in some cases, not be appropriate. County approved representatives of the proposer shall be available to meet with the contract manager, as may be required, to accomplish the County's objectives as effectively and efficiently as possible, during all phases of this agreement/contract/ proposal.
43. **SUPERVISION OF CONTRACT PERFORMANCE:** The proposer's performance of the contract will be monitored by the contract manager and the proposer shall be notified of lack of performance in writing by the contract manager. If at any time during the term of the contract, performance satisfactory to the contract manager shall not have been made, the proposer, upon written notification by the contract manager, shall within three (3) days increase the force, tools and equipment as needed to properly perform the contract. The failure of the contract manager to file such notification shall not relieve the proposer of the obligation to perform the work at the time and in the manner specified by the contract. If the proposer does not increase the force or neglects to do the work properly, the contract manager can withhold a percentage of payment or withhold the entire dollar amount due, as per the contract.
44. **MISUNDERSTANDING:** To prevent misunderstanding and any litigation, the contract manager shall decide any and all questions which may arise concerning the quality and acceptability of the work and services performed, the sufficiency of performance, the interpretation of the provisions of the contract, and the acceptable fulfillment of the contract on the part of the proposer. The contract manager will determine whether or not the amount, quantity, character and quality of the work performed is satisfactory, which determination shall be final, conclusive and binding upon both the proposer and the County. The contract manager shall make such explanation as may be necessary to complete, explain, or make definite the provisions of the contract, and the contract manager's findings and conclusions shall be final and binding upon both parties.
45. **OPERATION DURING DISPUTE:** In the event the County has not canceled the contract in accordance with the terms of the contract, and there remains a dispute between the proposer and the County, the proposer agrees to continue to operate and perform under the terms of the contract while such dispute is pending, and further agrees that, in the event a suit is filed for injunction or other relief, it will continue to operate the system until the final adjudication of such suit by the court.
46. **MONITORING OF WORK:** The proposer shall provide the contract manager with every reasonable opportunity to ascertain whether or not the work, as performed, is in accordance with the requirements of the contract. The proposer shall designate, in writing, a person to serve as liaison between the proposer and the County.
47. **PROMPT PAYMENT:** For payment promptness, Brevard County shall remit payment in accordance with the Florida Prompt Payment Act, Florida Statutes Section 218.70, et seq. Brevard County does not expect to be billed in excess of the ordered quantity and will not pay for any quantity above the ordered quantity. Any order placed as a result of this quotation will be subject to billing Instructions and Conditions on the face of the Brevard County Purchase Order form. Bidders may offer cash discounts for prompt payment but they will not be considered in determination of award. If a bidder offers a discount, it is understood that the discount time will be from the date of satisfactory delivery, at the place of acceptance, and receipt of correct invoice, at the office specified, whichever occurs last.
48. **RIGHT TO AUDIT RECORDS:** In the performance of this Agreement, the Contractor shall keep books, records, and accounts of all activities related to the Agreement, in compliance with generally accepted accounting procedures. All documents, papers, books, records and accounts made or received by the contractor in conjunction with the Agreement and the performance of this Agreement shall be open to inspection during regular business hours by an authorized representative of the office and shall be retained by the Contractor for a period of three (3) years after termination of this Agreement, unless such records are exempt from section 24(a) of Article I of the State Constitution and section 119.07(1) Florida Statutes.
49. **SPECIAL ACCOMMODATIONS:** In accordance with the Americans with Disabilities Act and Section 286.26, F.S., persons with disabilities needing special accommodations to participate should contact the County Manager's Office no later than 48 hours prior to any meeting at 633-2001 for assistance.
50. **UNAUTHORIZED ALIEN WORKERS:** Brevard County will not accept proposals from vendors who knowingly employ unauthorized alien workers, constituting a violation of the employment provisions contained in 8 U.S.C. Section 1324a (e) (Section 274A (e) of the Immigration and Nationality Act "INA"). The County shall consider a vendor's violation of the INA as grounds for immediate termination of any awarded proposal.

THIS FORM MUST BE NOTARIZED BELOW.

Sworn to and subscribed to me this ____ day of _____, 20__.

Personally known: ☐

Or produced identification: ☐ Type of ID: _____

Notary Signature _____

State _____

My commission expires : _____
(AFFIX SEAL or STAMP)

VENDOR MUST PROVIDE:

Yes ☐ No ☒
Yes ☐ No ☒
Yes ☐ No ☒

PROPOSAL BOND
PERFORMANCE BOND
LABOR, MATERIAL, PERFORMANCE BOND

**BOND DATA
AMOUNT:**

Bonds must be issued by Bonding Company who complies with the requirements of Florida Statutes Section 287.0935.

In cases where the amount of a surety bond exceeds \$500,000, the surety company must have an A. M. Best's rating as specified in this document and depending on the amount of the bond, shall have a minimum A. M. Best's financial size category ranking as follows:

BOND AMOUNT UP TO	FINANCIAL CLASS	BOND AMOUNT UP TO	FINANCIAL CLASS
\$ 1,000,000	V	\$ 25,000,000	IX
\$ 2,500,000	VI	\$ 50,000,000	X
\$ 5,000,000	VII	\$ 75,000,000	XI
\$ 10,000,000	VIII	\$ 100,000,000	XII

VENDOR COMPLAINTS AND DISPUTES

Brevard County encourages prompt and fair handling of all complaints and disputes with the business community. In order to resolve disputed matters in an equitable manner, the following procedures are adopted:

I. Posting of Award Notices

- A. **FORMAL SEALED BIDS/QUOTES:** No later than three (3) business days after a bid opening the Purchasing Manager or his/her designee shall post a tabulation of competitive sealed bids/quotes on a bulletin board located in or near the Purchasing Services Office. The apparent low bid/quote will be the intended award recommendation. If after posting the tabulation, the apparent low bid/quote is found to be non-responsive to the specifications, the formal award evaluation will be posted. The time for filing a protest will begin the date of the later posting.
- B. **FORMAL SEALED PROPOSALS:** No later than three (3) business days after the selection committee recommendations are finalized the Purchasing Manager or his/her designee shall post the selection committee's rankings and recommended award for bids.

II. PROCEEDINGS

- A. Any bidder, quoter or proposer who is allegedly aggrieved in connection with the solicitation or pending award of a contract must file a formal written protest with the Purchasing Manager within five (5) business days of the posted award recommendation.
- B. The formal written protest shall reference the bid/quote/proposal number, and shall state with particularity the facts and laws upon which the protest is based, including full details of adverse affects and the relief sought.
- C. Within seven (7) calendar days of receipt of the formal written protest the Purchasing Manager will arrange a meeting of the Protest Committee and the affected parties. The Protest Committee shall consist of two (2) Department Directors or designees, both of whom must be from an organizational group which the user department or group is not assigned; one (1) Assistant County Manager, who must be from an organizational group which the user department or group is not assigned under. The Purchasing Manager shall act as a non-voting Hearing Coordinator and the County Attorney or designee may be requested to attend as a non-voting member. The Purchasing Manager or designee record the meeting and provide any information as the committee may request. The purpose of the meeting of the Protest Committee is to provide an opportunity to: (1) review the basis of the protest, (2) evaluate the facts and merits of the bid protest, and (3) if possible, to reach a resolution of the protest that is acceptable to the affected parties. For the purpose of the Protest Committee hearing, resolution shall mean that the Protestor finds the decision of the Protest Committee acceptable.
- D. In the event the matter is not resolved with the Protestor's acceptance of the Protest Committee's decision, the Purchasing Manager will schedule the recommended award including the details of the protest and the Protest Committee's recommendation before the Board of County Commissioners via Board Agenda. The County Manager, prior to approval and placement on the Board agenda, may elect to resolve the matter before presentation to the Board. In the event that the County Manager cannot bring the matter to resolution, a copy of the Agenda Report shall be furnished immediately to all affected parties. The affected parties may appear before the Board of County Commissioners as a final means of administrative remedy.

III. STAY OF PROCUREMENTS DURING PROTESTS

Failure to observe any or all of the above procedures shall constitute a waiver the right to protest a contract award. In the event of a timely protest under the procedure, the County shall not proceed further with solicitation or with the award until a recommendation is made by the Committee, or a written determination is made by the County Manager that the award must be made without delay in order to protect the public interest. Invoice disputes between an awarded vendor and user agency will follow the guidelines set forth in AO-33, Prompt Payment of Invoices.

THE COUNTY OF BREVARD RESERVES THE RIGHT TO REJECT ANY OR ALL PROPOSALS, TO WAIVE INFORMALITIES, AND TO ACCEPT ALL OR ANY PART OF ANY PROPOSAL AS MAY BE DEEMED TO BE IN THE BEST INTEREST OF THE COUNTY

UNLESS OTHERWISE NOTED, PAYMENT OF GOODS OR SERVICES PROVIDED AS A RESULT OF THIS SOLICITATION WILL BE MADE PER FLORIDA STATUTE.

ALL FIRST TIME VENDORS MUST SUBMIT A W-9 FORM TO COUNTY FINANCE.

**REQUEST FOR PROPOSAL #P-5-10-16
CONTINUING ARCHITECTURAL/ENGINEERING DESIGN SERVICES
COMMUNITY DEVELOPMENT BLOCK GRANT**

The Brevard County Board of County Commissioners of Brevard County, Florida announces that professional architectural and engineering services are required to provide design services on a continuing contract basis for the Brevard County Housing & Human Services Department CDBG Program.

Services to be provided shall include architectural and engineering services for all phases of development of design, bid documents, and construction administration services. Projects may include but are not limited to: new construction, renovations, sewer installation and repair, drainage improvement, paving, sidewalk, and waterline installation, roadway construction, various infrastructure, etc. Two (2) firms will be selected and utilized on a rotating basis. In accordance with Florida Statutes, construction costs on these continuing contracts are not to exceed \$2,000,000 on any single project.

Contract will be negotiated for one (1) year with the option for renewal for up to three (3) additional extensions of one (1) year each.

Interested firms are asked to contact the following office for a complete submittal requirement package:

**Brevard County Board of County Commissioners
Purchasing Services Department
Attention: April Chapman, Purchasing Agent
2725 Judge Fran Jamieson Way, Building C, 3rd Floor
Viera, Florida 32940
(321) 617-7390 Fax: (321) 617-7391
E-mail April.chapman@brevardcounty.us**

The Selection Committee shall review responses, qualifications, and performance data and shall rank, in order of preference, no fewer than three(3) firms deemed to be the most highly qualified and short-listed, if at least three(3) firms respond to the RFP. The Selection Committee may request presentations and conduct discussions with the firms pertaining to their qualifications, approach to the project, and ability to furnish the required service. If interviews are not conducted, the criteria applied during the "short-list" phase will determine the rank order of firms for negotiation. The Negotiation Committee will negotiate with the top two (2) firms. After negotiations are concluded, the Negotiation Committee will forward its recommendations for the top firms to the Board of County Commissioners. Selection will be made in accordance with the Florida Consultants Competitive Negotiations Act (§ 287.055, F.S.) and Brevard County Policy BCC-26. Brevard County reserves the right to revise and/or limit the scope of professional services and to reject any and all Proposals.

Responses to this REQUEST FOR PROPOSAL #P-5-10-16 for Continuing Architectural/Engineering Design Services – Community Development Block Grant will be received no later than <u>3:30 p.m. on Wednesday, March 24, 2010. Proposals are due to Brevard County Purchasing Department, Building "C", 3rd Floor, Suite 303, 2725 Judge Fran Jamieson Way, Viera, Florida 32940.</u>
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Engineering fees will be negotiated after ranking is completed utilizing the Florida Competitive Negotiation Act.

**REQUEST FOR PROPOSAL #P-5-10-16
CONTINUING ARCHITECTURAL/ENGINEERING DESIGN SERVICES
COMMUNITY DEVELOPMENT BLOCK GRANT**

I. GENERAL TERMS AND CONDITIONS

1. All responses shall become the property of Brevard County. The details of the sealed Proposal documents submitted by any respondent will remain exempt from Florida Statute 119.07(1) (Public Records Inspection) until such time as Brevard County provides notice of a decision or intended decision or within ten (10) days after opening of the Proposals, whichever is earlier (Florida Statute 119.07(1)(b)).
2. All respondents must read and comply with the statement on Public Entity Crimes (Attachment "A") prior to entering into a Contract with the County.
3. The County will not reimburse respondent for any costs associated with respondent's preparation and submittal of any responses to this REQUEST FOR PROPOSAL #P-5-10-16/ CONTINUING ARCHITECTURAL/ENGINEERING DESIGN SERVICES – COMMUNITY DEVELOPMENT BLOCK GRANT.
4. Respondents acknowledge that all information contained within the response is public record to the extent required by State of Florida Public Records Laws.
5. All timely responses, as set forth in the Submittal Requirements, of respondents to this REQUEST FOR PROPOSAL #P-5-10-16 will be considered. Respondents are cautioned to clearly indicate any deviations from these qualifications. The terms and conditions contained herein are those desired by the County and preference will be given to those responses in full, or substantially full, compliance with the requested qualifications.
6. Any interpretation, clarification, correction or change to the REQUEST FOR PROPOSAL #P-5-10-16 will be made by written addendum issued by the Brevard County Purchasing Department. Any oral or other type of communication concerning the REQUEST FOR PROPOSAL #P-5-10-16 shall not be binding. All firms and their agents are hereby placed on notice that they are not to contact members of the Board of County Commissioners or staff, with the exception of the designated liaison. Public meetings and public deliberations of the Selection Committee are the only acceptable forum for the discussion of merits of products/services requested by this REQUEST FOR PROPOSAL #P-5-10-16 and written correspondence in regards to this REQUEST FOR PROPOSAL #P-5-10-16/CONTINUING ARCHITECTURAL/ENGINEERING DESIGN SERVICES – COMMUNITY DEVELOPMENT BLOCK GRANT is to be submitted to the designated liaison. The non-voting staff member designated as the liaison for this REQUEST FOR PROPOSAL #P-5-10-16 is April Chapman, Purchasing Agent, Brevard County Purchasing Department. (321) 617-7390
7. TIE BIDS: Award of all tie quotes/bids shall be made by the Purchasing Manager in accordance with State Statutes, which allows a firm certified as a Drug-Free Workplace to have precedence. When evaluation of vendor responses to solicitations results in identical offers, with regards to bids or quotations, or identical ranking with regards to proposals, from two or more vendors, the County shall determine the order of award using the following criteria in order of preference listed below(from highest priority to lowest priority):
 - a. For tie-bids, quotations, or proposals, priority shall be given to the vendor certifying that he/she is a Drug-Free Workplace as defined within §287.087, Florida Statutes;

- b. Should a tie still exist, in the case of proposals only, priority shall be given until the tie is broken, to the vendor with the highest total of raw scores for each evaluation criteria, progressing from the highest weighted criteria to the lowest rated criteria. If multiple evaluation criteria have identical weights, the combined total weights of the identically weighted criteria shall be used;
 - c. Should a tie still exist for bids, quotations or proposals, priority shall be given to the vendor having a verified business establishment within the boundaries of Brevard County, Florida;
 - d. In the event that a tie still exists after progressing through a-c, the decision shall be made by lot or coin toss. The drawing of lots or coin toss shall be conducted in the presence of the effected bidders if they elect to be present.
8. COUNTY SEAL: Use of the County Seal without the express approval of the Board of County Commissioners is a violation of section 165.043 Florida Statutes punishable as a misdemeanor.

II. SPECIAL TERMS AND CONDITIONS

- 1. The selected respondents shall be required to submit copies of current State registration of those Architects and Engineers who will be performing the work.
- 2. The successful respondents shall be required to enter into a continuing contract that will be provided by the County that incorporates the requirements of this REQUEST FOR PROPOSAL #P-5-10-16/ CONTINUING ARCHITECTURAL/ENGINEERING DESIGN SERVICES – COMMUNITY DEVELOPMENT BLOCK GRANT. The County's scope of services and corresponding consultant fees will be determined on a per project basis. If the parties cannot agree to the services/fees for the project, the County reserves the right to contract with any other consultant for that project.
- 3. The successful respondent shall hold harmless, indemnify and defend the County, its Commissioners, employees, representatives and agents against any claim, action, loss, damage, injury, liability, cost and/or expense arising out of or incidental to respondent's services under this Agreement. Consideration for this indemnification provision will be included in the respondent's hourly rate.
- 4. The successful respondent **shall not** be allowed to substitute project team members named in this response during the course of the contract without prior written permission of the County. **This requirement is not negotiable.**
- 5. Housing and Urban Development(HUD) regulates the type of project which can be undertaken and requires Architectural and Engineering (A&E) design prior to the implementation of each construction project.
- 6. The successful respondent, prior to the signing of the contract and before starting any work on this project, shall be required to submit all certificates of insurance as follows:
 - a. Worker's Compensation - covering all persons conducting operations on County premises or on behalf of the County with limits in the full amount required by Statute and in full compliance with applicable laws of the State of Florida.
 - b. Comprehensive General Liability and Auto Liability - Including but not limited to bodily injury, property damage and personal injury with limits of not less than \$1,000,000 combined single limit per occurrence including Contractual Liability incurred under this

Contract.

- c. Professional Liability Insurance - For errors and omissions resulting from design activities in the amounts of \$1,000,000 per claim.

III. SUBMITTAL REQUIREMENTS TO REQUEST FOR PROPOSAL #P-5-10-16

Proposals will be evaluated on the basis of the written document, therefore the proposal must be complete, concise and clear as to the intent of the respondent. In order to maintain competitiveness and for ease of evaluation, responses to the REQUEST FOR PROPOSAL #P-5-10-16 must be responsive to the following and presented in this format and order:

NOTE: All proposals must be presented as 8½" x 11" bound documents. The information must be tabbed according to each requested section. Number each side of each page consecutively including letter of interest, brochures, licenses, resumes, supplemental information, etc. Proposals shall not exceed eighty (80) pages. Covers, tables of contents and divider tabs will not count as pages, provided no additional information is included on those pages. Work product samples (reports, schedules, etc. provided in response) will not be counted in the eighty (80) page proposal limit. Package these work product samples separately from the proposal, labeling each sample clearly. Provide five (5) copies of the proposal and submit only one (1) copy of the work product sample package. Any proposals exceeding the eighty (80) page limit may be disqualified.

Following are the required Proposal sections and required minimum content:

- A. **INTRODUCTION/COVER LETTER:** Respondents shall provide a letter of introduction not to exceed two (2) pages. The letter should highlight or summarize whatever information a respondent deems appropriate as a cover letter; this section shall include the name, address, telephone number, FAX number and e-mail address of one person to whom all correspondence should be directed.

- B. **BUSINESS ORGANIZATION:** Describe the business organization; identify who will serve as major participants and their respective roles, and the following information as to business operations:

- 10 pts.** 1. **Organization:** State the full name, address and telephone number of the proposing firm/organization(s). Include Federal I.D. number and Corporate Charter Number.

- a. Indicate whether those persons who will participate in performing services for respondent will operate as a sole proprietorship, individual, partnership or corporation, and the state of its incorporation or license to operate.

- b. As applicable, provide the name of the branch office or other subordinate element that will perform or assist in performing the services described herein.

5 pts.

2. **Major Participants:** Recognizing the scope of this continuing contract, interested parties may select to use joint venture partners or sub-consultants. Provide the following in list form on a summary page.

- a. A list of major participants and complete addresses, and their relationship to the respondent, whether as a joint venture, partner, subsidiary or sub-consultant.
- b. Should any of the above participants include a Minority Business Enterprise (MBE), this should be noted, along with the entity that has so certified the respondent as an MBE.
- c. Specific role in the project of all participants noted above.
- d. Estimated percentages of participation of all participants noted above.

20pts General

15pts CDBG

10pts Local 3.

Experience/CDBG Experience/References: Respondents must provide a list of work on projects relating to architectural/engineering services. The information will be presented in summary form and then can be followed as appropriate by a narrative.

- a. List the five (5) most recent projects for which your firm has provided or is providing architectural/engineering services or continuing architectural/engineering services. List the projects with the most recent project listed first. **These projects should be consistent with the County's commitment to improving defective sanitary sewer and storm water systems, street rehabilitation and reconstruction, and/or removal of architectural barriers, and utilizing CDBG funds.**
- b. For each of the listed projects, provide the following information: Project size, construction cost (original estimate, construction cost and final construction cost), current phase of development, estimated (or past) completion date, type of delivery method (lump sum, design/build, construction management at risk, etc.), scope of services, name of design team members within your firm and titles, name of Owner, contact person with telephone number, fax number and email address.

Note: A contact person shall be someone who has personal knowledge of the proposer's performance for the specific requirement listed. Contact person must have been informed that they are being used as a reference and that the County may be calling them. DO NOT list persons who will be unable to answer specific questions regarding the requirements. Failure of references to reply to inquiries could have a detrimental impact on this rating.

25 pts

4. **Respondent's Personnel:**

- a. List total number of your firm's key personnel by skill group (ie: architects, engineers, construction administrators, mechanical, electrical, civil, structural, etc). **The prime consultant must be a licensed Engineering Business in the State of Florida. A licensed Professional Engineer in**

the local office is preferred. Please provide copy in RFP submittal. A Florida registered surveyor must be an employee of the firm. Please provide copy in RFP submittal

- b. Name all key personnel which will be part of the architectural/engineering team for this program and provide their cities of residence.
- c. For each project listed in response to Number 3, list the members of the proposed team who worked on the project and describe their roles.
- d. If the team as a whole provided design services for any of the projects listed in response to Number 3, so indicate.

15 pts

- 5. **Approach to CDBG Projects:** The respondents must provide a narrative of their approach to CDBG projects specifically.
- 6. **Respondent's Consultants:** Name any consultants which are included as part of the proposed team, and the name & title of each individual and their specific responsibility. Include a "sample" copy of the contract or proposed contract between your organization and the consultant(s). (Note: follow instructions for work product samples included in this section of the REQUEST FOR PROPOSAL #P-5-10-16 when submitting this example).
- 7. **Construction Cost Control:** For five (5) of the projects listed in response to III.3.a above, describe cost control methods for the design and construction phases. How did you develop cost estimates and how often were they updated? Provide examples of how these techniques were used and what degree of accuracy was achieved. Include examples of successful value engineering to maintain project budgets without sacrificing quality. Include a sample of a cost estimate. (Note: follow instructions for work product samples included in this section of the REQUEST FOR PROPOSAL #P-5-10-16 when submitting this example).
- 8. **Scheduling:** For five (5) of the projects listed in response to III.3. above, describe the way in which your firm developed and maintained design and construction project schedules. How did you develop schedules and how often were they updated? Provide examples of how these techniques were used. Include specific examples of scheduling challenges, and how your firm helped solve them. Submit an example of a project schedule. (Note: follow instructions for work product samples included in this section of the REQUEST FOR PROPOSAL #P-5-10-16 when submitting this example).
- 9. **Information Management:** For five (5) of the projects listed in response to III.3. above, describe the types of records, field records, logs, meeting minutes, monthly reports, monitoring systems and information management systems which your firm used in the management of those projects. Provide examples of each report used. (Note: follow instructions for work product samples included in this section of the REQUEST FOR PROPOSAL #P-5-10-16 when submitting these examples).
- 10. **Conflict Resolution:** For five (5) of the projects listed in response to III.3 above, describe conflicts or potential conflicts with the Owner, general

contractor or trade contractors, and describe the methods used to prevent and/or resolve those conflicts.

11. **Quality Control:** For five (5) of the projects listed in response to III.3. above, describe the way your firm maintained quality control during each phase of the design and construction, including the warranty phase. Provide specific examples of how these techniques were used.
12. **Joint Venture:** Is the applicant a joint venture? If so, describe the division of responsibilities between the participating firms, the offices (location) that will be the primary participants, and the percent interest of each firm. Attach a copy of your joint venture agreement. (Note: follow instructions for work product samples included in this section of the REQUEST FOR PROPOSAL #P-5-10-16 when submitting this example).
13. **Design Cost Controls:** For five (5) of the projects listed in response to III.3 above, describe how your firm controls internal costs during the design and construction administration phases.
14. **Confirmation of Acceptance:** By submission of a response to this REQUEST FOR PROPOSAL #P-5-10-16 the respondent makes the following acknowledgments/certifications. Include a signed and notarized statement indicating confirmation of acceptance.
 - a. Your firm/organization/joint venture consents that proposals will not be accepted from any company, firm, person, or party, parent or subsidiary, against which the County has an outstanding claim, or a financial dispute relating to prior contract performance with the County. At any time the County discovers such a dispute during any point of evaluation, the proposal will not be considered further.
 - b. Through a statement of disclosure, your firm/organization/joint venture will provide sufficient detail of any relationship, especially financial, between members of your firm and any County officials, officers, or employees or their family members. This will allow the County to evaluate possible conflicts of interest. The County will determine whether the extent of any conflict of interest will disqualify the respondent.
 - c. Your firm/organization/joint venture consents that its proposal will remain valid for a period of not less than sixty (60) days from the due date of proposals.
 - d. Regarding information furnished by the applicant herewith, and as may be provided subsequently (including information presented at interview, if a finalist):
 1. All information of a factual nature is certified to be true and accurate.
 2. All statements of intent or proposed future action (including the assignment of personnel and the provision of services) are commitments that will be honored by the respondent if awarded the contract.

e. It is acknowledged that:

1. If any information provided by the applicant is found to be, in the opinion of the Selection Committee or Board of County Commissioners, substantially unreliable, this proposal may be rejected.
2. The Selection Committee may reject all applicants and may stop the selection process at any time.
3. The selection of finalists for interview will be made on the basis of information provided by the respondent pursuant to this REQUEST FOR PROPOSAL #P-5-10-16 (RFP). Interviewed firms will then be ranked based on their oral presentation, interview questions and the results of reference checks.
4. This proposal must be received at Brevard County Purchasing Department, 2725 Judge Fran Jamieson Way, Building C, 3rd Floor, Viera, Florida 32940 no later than 3:30 p.m. on March 24, 2010.
5. The respondent has not been convicted of a public entity crime within the past 36 months, as set forth in Section 287.133, Florida Statutes.

C. FORMS & LICENSING

Prior to contract award, the County requires the following certificates:

1. Standard Form 330 (replaces SF254 and SF255).
2. Copies of current State registration of Architects and Engineers of proposed team.
3. Worker's Compensation Insurance; Professional Liability Insurance coverage in the amount of \$1,000,000.00 per claim; Comprehensive General Liability and Auto Liability Insurance coverage in the amount of \$1,000,000 per occurrence.

IV. SELECTION COMMITTEE AND STAFF LIAISON

Evaluation of proposals will be conducted by an evaluation committee comprised of qualified County staff. The committee will evaluate, score and rank all responsive proposals based upon the information and references contained in the proposals submitted in order to determine the most qualified responses according to ranking. The Committee will negotiate with the top two (2) firms. After negotiations are concluded, the Selection Committee will forward its recommendations for the top firms to the Board of County Commissioners.

Ian Golden, Interim-Director, Housing & Human Services Department
Michael McDonald, Construction Supervisor, Housing & Human Services Department
Steve Quickel, Director, Facilities Department
April Chapman, Purchasing Agent, Brevard County Purchasing Department

**REQUEST FOR PROPOSAL #P-5-10-16
CONTINUING ARCHITECTURAL/ENGINEERING DESIGN SERVICES
COMMUNITY DEVELOPMENT BLOCK GRANT**

EVALUATION SHEET

<u>CATEGORY</u>	<u>MAXIMUM POSSIBLE SCORE</u>	<u>REVIEWER SCORE</u>
1. Business Organization	10	_____
2. Major Participants	5	_____
3. References – CDBG Projects	35	_____
4. References – Local Government	10	_____
5. Project Personnel	25	_____
6. Approach to CDBG Projects	15	_____
 TOTAL SCORE	 100	 _____

**REQUEST FOR PROPOSAL #P-5-10-16
CONTINUING ARCHITECTURAL/ENGINEERING DESIGN SERVICES
COMMUNITY DEVELOPMENT BLOCK GRANT
ATTACHMENT "A"**

PUBLIC ENTITY CRIME AFFIDAVIT

A person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid/quote/proposal on a contract to provide goods or services to a public entity, may not submit a bid/quote/proposal on a contract with a public entity for the construction or repair of a public building or public work, may not submit bids/quotes/proposals on leases of rental property to a public entity, may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity, and may not transact business with any public entity in excess of the threshold amount provided in Section 287.017, for CATEGORY TWO for a period of 36 months from the date of being placed on the convicted vendor list.

Acknowledged: _____

Date:

REQUEST FOR PROPOSAL #P-5-10-16
CONTINUING ARCHITECTURAL/ENGINEERING DESIGN SERVICES
COMMUNITY DEVELOPMENT BLOCK GRANT
INDEMNIFICATION AND INSURANCE REQUIREMENTS

INDEMNIFICATION

The County shall be held harmless against any and all claims for bodily injury, sickness, disease, death or personal injury, or damage to property or loss of use of any property or assets resulting there from, arising out of or resulting from the performance of the products or from the services, for which, the County is contracting hereunder, provided such is caused in whole or in part by any negligent act or omission of the vendor, or any subcontractor or any of their agents or employees, or arises from a job-related injury.

The vendor agrees to indemnify the County and pay the cost of the County's legal defenses, including fees of attorneys as may be selected by the County, for all claims described in the hold harmless clause herein. Such payment on behalf of the County shall be in addition to any and all other legal remedies available to the County and shall not be considered to be the County's exclusive remedy.

It is agreed by the parties hereto that specific consideration has been received by the Vendor under this agreement for this hold harmless/indemnification provision.

INSURANCE REQUIREMENTS

The vendor providing services under this agreement will be required to procure and maintain, at their own expense and without cost to the County, until final acceptance by the County of all products or services covered by the purchase order or contract, the following types of insurance. The policy limits required are to be considered minimum amounts.

General Liability Insurance policy with a \$ 1,000,000 combined single limit for each occurrence to include the following coverage: operations, products and Completed Operations, Personal Injury, Contractual Liability covering this contract, and "X-C-U" hazards, with errors & omissions.

Auto Liability Insurance which includes coverage for all owned, non-owned and rented vehicles with a \$ 1,000,000 combined single limit for each occurrence.

Workers' Compensation and Employers Liability Insurance covering all employees of the vendor as required by law.

In the event that the contract involves professional or consulting services, in addition to the aforementioned insurance requirements, the vendor shall also be protected by a Professional Liability Insurance Policy in the amount of \$1,000,000.00 per claim.

The vendor shall provide certificates of insurance to the County demonstrating that the aforementioned insurance requirements have been met prior to the commencement of work under this contract. The General Liability and Auto Liability certificates of insurance shall indicate that the policies have been endorsed to cover the County as an additional insured and that these policies may not be canceled or modified without thirty (30) days prior written notice to the County.

The insurance coverage enumerated above constitute the minimum requirements and shall in no way lessen or limit the liability of the vendor under the terms of the contract. Sub-Contractor's insurance shall be the responsibility of the vendor.

ACCEPTED BY:

Vendor Name _____

Address _____

Authorized Signature/Title _____ Date _____

Print Name _____

Telephone Number _____ Fax # _____ Mobile # _____

CONTINUING ARCHITECTURAL/ENGINEERING DESIGN CONSULTANT SERVICES AGREEMENT

This is an Agreement entered into this ____ day of _____ 2010, by and between BREVARD COUNTY BOARD OF COUNTY COMMISSIONERS, a political subdivision of the State of Florida, hereinafter referred to as COUNTY and _____, a corporation under the laws of the State of Florida, hereinafter referred to as CONSULTANT.

WHEREAS, the County has a need for the services of a consultant to provide architectural/engineering design services;

WHEREAS, the County issued a Request for Proposal for such services and has selected the CONSULTANT to provide said services;

WHEREAS, this is an Agreement for professional services for projects in which the construction costs do not exceed \$2 million, for study activity when the fee for services does not exceed \$50,000, or for work of a specified nature as outlined herein.

For and in consideration of the mutual agreement hereinafter contained, the COUNTY hereby retains the CONSULTANT and the CONSULTANT hereby covenants to provide continuing architectural/engineering services as prescribed herein.

SECTION I - GENERAL IDENTIFICATION OF SERVICES

All continuing architectural/engineering services provided by the CONSULTANT for the COUNTY shall be identified in Work Order Proposals. Work Order Proposals shall entail a description of services to be performed, a statement of fees, proposed schedule for compensation, a projected schedule for completion of the work, project team members assigned to supervise/perform services provided under the Work Order Proposal, and any other terms or conditions specific to the Work Order Proposal to be performed by the CONSULTANT. A Work Order Proposal shall not give rise to any contractual rights until approved by the COUNTY in the form of a written Authorization to Proceed signed by an authorized representative of the COUNTY. The written Authorization to Proceed and specific Work Order Proposal, as approved by the COUNTY, shall together constitute an addendum to this Agreement.

SECTION II - COUNTY OBLIGATIONS

The COUNTY shall furnish to the CONSULTANT, upon request, any data available in the COUNTY'S files pertaining to the work to be performed under this Agreement.

SECTION III - CONTINUING DESIGN CONSULTANT SERVICES

Upon receipt of a Notice to Proceed on a, CONSULTANT agrees to perform continuing architectural/engineering services associated with the requested work in accordance with the negotiated terms of the applicable Work Order Proposal, and in accordance with accepted professional standards and practices. The CONSULTANT agrees to correct any errors and omissions and prepare any revisions which may be required because the CONSULTANT'S plans and specifications were found defective, without any increase in price of the applicable Work Order Proposal. This remedy shall be cumulative to all other remedies available under law.

In connection with continuing architectural/engineering services to be rendered pursuant to this Agreement, the CONSULTANT further agrees to:

- A. Maintain an adequate staff of qualified personnel.
- B. Comply with federal, state and local laws applicable to the work.
- C. Cooperate fully with the COUNTY in the scheduling and coordination of all phases of the work.
- D. Cooperate and coordinate with other COUNTY consultants, as directed by the COUNTY.
- E. Report the status of the work to the COUNTY upon request and hold pertinent data, calculations, field notes, records, sketches and other projects open to the inspection of the COUNTY or its authorized agent at any time.
- F. Submit for COUNTY review design computations, sketches and other data representative of the work's progress at the percentage stages of completion which may be stipulated in the applicable Work Order Proposal. Submit for COUNTY approval the final work product upon incorporation of any modifications requested by the COUNTY during any previous review. Any COUNTY approval of the CONSULTANT'S plans, design or specifications shall not be deemed to diminish the CONSULTANT'S responsibility.
- G. Confer with the COUNTY during the further development and implementation of improvements for which the CONSULTANT has

provided design or other services.

- H. Interpret plans and other documents, correct CONSULTANT errors and omissions and prepare any necessary plan revisions not involving change in the scope of work required, at no additional cost.
- I. Prior to final approval of the work by the COUNTY, as Owner, the CONSULTANT shall submit any of CONSULTANT'S construction documents to any review committee, third party consultant or any county, city, state or federal agency from which a permit or other approval is required, and revise CONSULTANT'S construction documents as may be required by such permitting or approval agencies. Any approval obtained from the COUNTY or any other agency shall not be deemed to diminish or discharge the CONSULTANT'S responsibility provided for in this Agreement.

Regarding any resulting construction, the CONSULTANT will review all bids and make recommendations regarding award to the lowest responsible bidder. The CONSULTANT shall review and approve the contractor's Schedule of Values.

Prior to commencement of construction, the CONSULTANT shall attend a pre-construction conference. Representatives from the Owner, Contractor and CONSULTANT shall attend to discuss policies and procedures to be followed during the construction period and answer questions regarding design intent, clarification or interpretation of the construction documents.

The CONSULTANT will review and approve or reject, as appropriate, all Contractor Applications for Payment submitted during the construction of work.

The CONSULTANT will review and approve or reject, as appropriate, all contractor submitted as-built drawings, warranties and operation and maintenance manuals for completeness and conformance with the contract requirements and submit to the Owner indicating their approval.

The CONSULTANT will prepare record drawings and specifications showing significant changes in the work made during construction based on marked-up

prints, drawings and other data furnished by the contractor to the CONSULTANT, utilizing AutoCad Release 12 or newer software or compatible approved by the Owner. **One (1) set of reproducible record drawings is to be submitted to the Owner with Certificate of Final Completion.**

The CONSULTANT will prepare and distribute meeting minutes at all design phase meetings and progress meetings, in a format approved by the Owner. In addition to the regular scheduled construction site visits and progress meetings, this Contract shall include, at no additional cost to the Owner, the Substantial & Final Completion Inspection(s) and the warranty inspection with the appropriate written reports and certifications.

The CONSULTANT shall respond promptly and completely to all Requests For Information or clarifications regarding the drawings and specifications so as not to cause a delay in the construction schedule.

SECTION IV - TIME OF COMPLETION

The services to be rendered by the CONSULTANT for each section of the work shall commence upon receipt of a written Notice to Proceed from the COUNTY subsequent to the execution of the Agreement, and shall be completed within the time stated in the Work Order Proposal.

SECTION V - COMPENSATION

The COUNTY agrees to pay and the CONSULTANT agrees to accept, for services rendered pursuant to this Agreement, fees and other compensation computed in accordance with one or a combination of the methods outlined below, and as specified in an approved Work Order Proposal:

- A. Hourly Rate - the CONSULTANT shall be compensated at the attached Hourly Rate Schedule (Attachment "A") for each hour of time engaged directly in the work.
- B. Lump Sum Fee - The fee for any requested portion of work may, at the option of the COUNTY, be a lump sum mutually agreed upon by the COUNTY and the CONSULTANT and stated in the written Work Order Proposal.

- C. Reimbursable Expenses - The CONSULTANT shall be compensated for certain work-related expenditures not covered by fees for consulting services, provided such expenditures are previously authorized by the COUNTY in an approved Work Order Proposal. Upon receipt of satisfactory back up materials, the CONSULTANT will be compensated for such reimbursable expenses at a rate of 1 times actual expenses. Such expenses may include:
 - 1. Expenses for document reproduction. These expenses shall be reimbursed on a direct cost basis to cover labor and expenses.
 - 2. Mileage – These expenses shall be reimbursed at a flat rate of .445¢ per mile.
- D. At least thirty (30) days prior to each anniversary date of this Agreement either party may request an adjustment to the rates provided for herein to apply in the forthcoming year. Failure of the parties to agree on a new rate shall constitute a basis for issuing a Notice of Termination by the COUNTY. Any proposed change in rates by the CONSULTANT shall be subject to the prior approval of the COUNTY.
- E. In the event CONSULTANT experiences any delay resulting from circumstances beyond its control, or a change in the scope of work which will result in an increase or decrease in a Work Order Proposal's price or time, CONSULTANT shall provide immediate notice to the COUNTY for consideration of additional compensation or time. Additional compensation shall be limited to direct costs resulting from the delay or change in work.

SECTION VI - PAYMENT AND PARTIAL PAYMENTS

Subject to the COUNTY'S right to withhold any amounts reasonably necessary to complete or correct defective or substandard work, the COUNTY shall make monthly payments or partial payments to the CONSULTANT for all authorized work performed during the previous calendar month in accordance with Section 218.70, et. seq. Florida Statutes, the "Florida Prompt Payment Act."

- A. The CONSULTANT shall submit signed invoices to the COUNTY.
- B. The amount of each invoice submitted shall be the amount due for all services performed to date in connection with authorized work, as certified by the CONSULTANT. Each invoice shall include any authorized

reimbursable expenses and must reference the particular Work Order Proposal which authorized the services performed. The invoice shall be accompanied by copies of invoices for reimbursable expenses.

- C. Invoices for work other than lump sum shall include a breakdown for each part of the work billed for each item and personnel as identified in Attachment "A". Copies of all invoices paid by the CONSULTANT for expenses shall be included with the CONSULTANT's invoice.

SECTION VII - SCHEDULE OF WORK

The COUNTY shall have the sole right to determine on which units or sections of the work the CONSULTANT shall proceed with and in what order. Should a Work Order Proposal revision cause a change in scope, cost or schedule, the CONSULTANT shall submit such revisions for review and, if warranted, approval by the COUNTY in writing.

SECTION VIII - RIGHT OF DECISIONS

All services shall be performed by the CONSULTANT to reasonable professional standards and practices and to the reasonable requirements of the COUNTY. COUNTY staff shall decide and dispose of all claims, questions and disputes arising under this Agreement. Such determination shall be final, conclusive and binding upon the parties hereto unless such determination is clearly arbitrary or unreasonable. In the event the CONSULTANT does not concur with the decisions of the COUNTY, within ten (10) calendar days after determination by COUNTY staff, the CONSULTANT shall present any such objections in writing to COUNTY staff and, upon request, any adverse determination shall be referred to an appeal board comprised of a representative of Purchasing Services, County Manager's office and the Housing and Human Services Department for review and disposition at a hearing to be held within ten (10) calendar days after receipt of the appeal.

This paragraph does not constitute a waiver of either party's right to proceed in a court of competent jurisdiction, provided that prior to filing any suit the CONSULTANT goes through the appeal process established in this Agreement and provided further that the CONSULTANT strictly abides by the ten day time deadline set forth in this paragraph.

SECTION IX - OWNERSHIP OF DOCUMENTS

All reports, tracings, plans, specifications, maps, contract documents and other work products developed by the CONSULTANT pursuant to this Agreement shall become the property of the COUNTY. When each individual section of work requested pursuant to this Agreement is complete, all of the above work products shall be delivered to the COUNTY for its use.

SECTION X - REUSE OF DOCUMENTS

The CONSULTANT may not reuse plans, specifications or reports specifically developed by the CONSULTANT for the COUNTY without express written permission from the COUNTY. The COUNTY may reuse any plans, specifications or reports provided under this Agreement under the following conditions:

- (a) COUNTY shall notify the CONSULTANT of such reuse;
- (b) COUNTY and CONSULTANT shall agree to compensation for such reuse;
- (c) The provisions of Florida Statutes 287.055(II) are followed; and
- (d) The County shall hold CONSULTANT harmless from any property damage or personal injury which may result from such reuse.

SECTION XI - NOTICES

Any legal notices from the CONSULTANT to the COUNTY shall be considered delivered when posted by certified mail or delivered in person to the COUNTY.

Any legal notices from the COUNTY to the CONSULTANT shall be considered delivered when posted by certified mail to the CONSULTANT at the last address left on file with the COUNTY or delivered in person to said CONSULTANT of the CONSULTANT'S authorized representative. Notice under this Agreement shall be given as above to the following authorized **representatives**:

On behalf of the County:

Housing and Human Department
Attn: Michael McDonald, Construction Supervisor
2725 Judge Fran Jamieson Way, Building B-106
Viera, Florida 32940

On behalf of the CONSULTANT:

XXXXXXXXXXXXXXXXXX
XXXXXXXXXXXXXXXXXX

SECTION XII - AUDIT RIGHTS

The COUNTY or any of its duly authorized representatives reserves the right to audit the records of the CONSULTANT related to this Agreement at any time during the prosecution of the work included herein and for a period of three (3) years after final payment is made.

SECTION XIII – SUBCONTRACTING

The CONSULTANT shall not subcontract, assign, or transfer any work under this Agreement without the written approval of the COUNTY. When applicable, the CONSULTANT shall cause the names of any subcontracted firms responsible for major portions (or separate specialty) of the work to be inserted in the pertinent documents or data.

SECTION XIV - CONTINGENT FEES

The CONSULTANT represents that no person or company was employed or retained to solicit or secure this Agreement upon an agreement or understanding for a commission, percentage, brokerage or contingent fee, excepting bona fide employee, any fee commission, contribution, donation, gift or any other consideration, contingent upon, or resulting from award of this Agreement.

For any breach or violation of this provision, the COUNTY shall have the right to terminate this Agreement, without liability, and, at its discretion, to deduct from the contract price or otherwise recover, the full amount of such fee, commission, percentage, gift or consideration and any damages and shall be responsible for reporting the details of such breach or violation to the proper legal authorities where and when appropriate.

SECTION XV - TERMINATION/MODIFICATION OF AGREEMENT

A. Either party may terminate this Agreement for any reason upon thirty (30) days written notice, provided that, in the event CONSULTANT so terminates, any outstanding approved Work Order Proposal upon which a Notice to Proceed has been issued is completed by the CONSULTANT.

B. In the event of termination by the COUNTY, the COUNTY's sole obligation to the

CONSULTANT shall be payment for those portions of work satisfactorily completed which were previously authorized by approved Work Order Proposal. Such payment shall be determined on the basis of hours of work performed by the CONSULTANT and agreed upon by the COUNTY up to the time of termination. In the event of such termination, the COUNTY may, without penalty or other obligation to the CONSULTANT, elect to employ other persons to perform the same or similar services.

C. The terms of this Agreement may be modified upon the mutual agreement of the CONSULTANT and the COUNTY as confirmed in writing.

D. In the event that the CONSULTANT changes the firm's name, merges with another company, becomes a subsidiary, substitutes any project team members, or makes other substantial change in structure or in principals, the COUNTY reserves the right to terminate this Agreement subject to the terms prescribed above.

E. The CONSULTANT shall not be allowed to substitute project team members named in its response, during the course of the contract, without prior written permission of the COUNTY.

SECTION XVI - DURATION OF AGREEMENT

This Agreement shall remain in full force and effect for a period of one (1) year after its date of execution, although actual completion of services hereunder may extend beyond such term, unless this Agreement is terminated by mutual consent of the parties as otherwise provided herein. The performance of specially and properly authorized projects may extend beyond the Agreement's one-year effective term and shall be compensated in accordance with Section IV hereof. In addition, subject to the COUNTY'S sole discretion, if no change in fees under Schedule "A" or paragraph V.D. is proposed, this Agreement may be extended in one (1) year increments for up to three (3) years beyond the initial one (1) year period of the Agreement.

SECTION XVII – DEFAULT

In the event the CONSULTANT fails to comply with the provisions of this Agreement, the COUNTY may declare the CONSULTANT in default by written notification. In the event partial payment has been made for continuing Architectural and engineering

services not completed, the CONSULTANT shall return any sums due to the COUNTY as a result of CONSULTANT'S default within ten (10) days after notice and demand that said sums are due. The CONSULTANT shall not be compensated on a percentage of any deficient continuing architectural and engineering services which have been performed at the time the COUNTY declares a default. The COUNTY shall pay for that portion, if any, of the performed work which is used or useful by any other consultant retained by the COUNTY to finish the work to the extent that the COUNTY does not incur additional costs over those set forth in the CONSULTANT's canceled Work Order Proposal.

Any default by the COUNTY for causes which are later determined to be invalid shall be considered a termination by the COUNTY for convenience and compensated as provided in Section XV.

SECTION XVIII - INDEMNIFICATION AND INSURANCE

The CONSULTANT shall provide the following described insurance policies with insurers acceptable to the COUNTY. The CONSULTANT shall provide and maintain at all times during the terms of the Agreement, without cost or expense to the COUNTY, policies of insurance generally known as comprehensive general liability and auto liability policies, and professional errors and omissions liability coverage. These policies of insurance shall cover the CONSULTANT for any and all claims, demands, and expenses whatsoever, including defense and causes for action for general damages, bodily injury and property damage arising out of or to the extent caused by negligent acts, errors or omissions of the CONSULTANT. Said policies shall provide limits in the amount not less than \$500,000 per occurrence to cover any and all claims arising in connection with any particular accident or occurrence.

The CONSULTANT shall provide and maintain Workers' Compensation insurance (as required by law) for all employees to provide services under the scope of this Agreement. The COUNTY shall be entitled to thirty (30) days written notice of any changes or cancellations of said policies. These insurance requirements shall not relieve or limit the liability of the CONSULTANT. The COUNTY does not in any way represent that these types or amounts of insurance are sufficient or adequate to protect the CONSULTANT'S interests or liabilities, but are merely minimums.

The CONSULTANT agrees to indemnify, defend and hold the COUNTY harmless against any and all claims, causes of action or liability for bodily injury, sickness, disease, death or personal injury or damage to property or loss of use resulting therefrom to the extent caused by negligent acts, errors or omissions of the CONSULTANT. The CONSULTANT agrees to indemnify and pay on behalf of the COUNTY the cost of the COUNTY'S legal defense of all claims described herein. Such payment on behalf of the COUNTY shall be in addition to any and all other legal remedies available to the COUNTY and shall not be considered to be the COUNTY's exclusive remedy. It is agreed by the parties hereto that specific consideration has been paid under this Agreement for this hold harmless provision. The COUNTY agrees to hold the CONSULTANT harmless from any property damage or personal injury which may result from the COUNTY'S negligent acts relating to the performance of this Agreement.

SECTION XIX - QUALITY CONTROL

The CONSULTANT shall provide a high level of quality control and accuracy. The COUNTY may request additional data collection or re-analysis of data at no expense to the COUNTY. If the original data collected and/or the data analysis is found to be accurate and reasonable, the CONSULTANT shall be compensated for the additional work in accordance with Section IV of this Agreement.

The CONSULTANT acknowledges that the COUNTY will periodically evaluate the CONSULTANT's performance and that the evaluation will be used by the COUNTY in determining the CONSULTANT'S qualifications for future contracts with COUNTY.

SECTION XX - NON EXCLUSIVE AGREEMENT

The parties acknowledge that this Agreement is not an exclusive Agreement and the COUNTY may employ other architects, engineers, professional or technical personnel to furnish services for the COUNTY, as the COUNTY, in its sole discretion, finds is in the public interest.

The COUNTY reserves the right to assign such work to the CONSULTANT as it may approve in the sole discretion of the COUNTY.

SECTION XXI - TRUTH IN NEGOTIATIONS

In accordance with the provisions of Chapter 287.055, Florida Statutes, the CONSULTANT agrees to execute a truth-in-negotiations certificate (Attachment "B") and agrees the original contract price and any additions may be adjusted to exclude any significant sums by which the contract price was increased due to inaccurate, incomplete or non-current wage rates and other factual unit costs.

SECTION XXII - INTEREST OF MEMBERS OF COUNTY AND OTHERS

No officers, members or employees of the COUNTY, and no members of its governing body, and no other public official of the governing body of the locality or localities in which services for the facilities are situated or carried out, who exercised any functions or responsibilities in the review or approval of the undertaking or carrying out of this project, shall participate in any decision relating to this Agreement which affects their personal interest, or have any personal or pecuniary interest, direct or indirect, in this Agreement or the proceeds thereof.

The CONSULTANT shall not engage the services of any person or persons now employed by the County, including any department, agency, board or commission thereof, to provide the services relating to this Agreement without the written consent from the County.

SECTION XXIII - INTEREST OF CONSULTANT

The CONSULTANT covenants that it presently has no conflict of interest and shall not acquire any interest, direct or indirect, which shall conflict in any manner or degree with the performance of services required to be performed under this Agreement. The CONSULTANT further covenants that, in the performance of this Agreement, no person having any such interest shall be employed.

SECTION XXIV - ENTIRETY OF AGREEMENT

This writing, together with Work Order Proposals and signed Authorizations to Proceed that may follow, embody the entire Agreement and understanding between the parties hereto, and there are not other agreements and understandings, oral or written, with reference to the subject matter hereof that are not merged herein.

No alteration, change or modification of the terms of this Agreement shall be valid unless made in writing, signed by both parties hereto as an addendum to this Agreement, or as specifically prescribed in a Work Order Proposal.

SECTION XXV – GOVERNING LAW

This Agreement, regardless of where executed, shall be governed by and construed according to the laws of the State of Florida.

SECTION XVI – VENUE

Venue for any legal action by any party to this agreement to interpret, construe or enforce this Agreement, shall be in a court of competent jurisdiction in and for Brevard County, Florida and any trial shall be nonjury and any trial shall be non-jury.

SECTION XVII – ATTORNEYS FEES

In the event either party sues the other to enforce the terms of this Agreement, or any Work Order Proposals issued hereunder, each party shall bear its own attorney's fees and costs.

SECTION XVIII – CONSTRUCTION OF AGREEMENT

The parties hereby acknowledge that they fully reviewed this Agreement, its attachments and had the opportunity to consult with legal counsel of their choice, and that this Agreement shall not be construed against any party as if they were the drafter of this Agreement.

IN WITNESS WHEREOF, the parties have hereunto set their hands and seals on the day and year first above written.

ATTEST:

BREVARD COUNTY BOARD OF
COUNTY COMMISSIONERS:

Scott Ellis, Clerk

Chuck Nelson, Chairman

As Approved By the Board: _____

By:

ATTACHMENT "A"

CONTINUING ARCHITECTURAL/ENGINEERING SERVICES CONTRACT

STANDARD HOURLY RATE SCHEDULE

CURRENTLY UNDER NEGOTIATIONS

[illegible]

ATTACHMENT "B"

TRUTH-IN-NEGOTIATION CERTIFICATE AND AFFIDAVIT

STATE OF FLORIDA §
COUNTY OF §

Before me, the undersigned authority, personally appeared Affiant who being first duly sworn, deposes and says:

1. That the undersigned firm is furnishing this Truth-In-Negotiation Certificate pursuant to Section 287.055(5) of the Florida Statutes for the undersigned firm to receive an Agreement for continuing architectural and engineering services with the Board of County Commissioners of Brevard County, Florida.

2. That the undersigned firm is a corporation which engages in furnishing continuing architectural and engineering services and is entering into an Agreement with the Board of County Commissioners of Brevard County, Florida to provide continuing architectural and engineering services for a project known as the Continuing Contract.

3. That the undersigned firm has furnished the Board of County Commissioners of Brevard County, Florida a detailed analysis of the cost of the continuing architectural and engineering services required for the project.

4. That the wage rate information and other factual unit costs which the undersigned firm furnished were accurate, complete and current at the time the undersigned firm and the Board of County Commissioners of Brevard County, Florida entered into the Agreement for continuing architectural and engineering services on the project.

5. That the Agreement which the undersigned firm and the Board of County Commissioners of Brevard County, Florida entered into on this project contained a provision that the original Agreement price and any additions thereto shall be adjusted to include any significant sums by which the Board of County Commissioners of Brevard County, Florida determines the Agreement price was increased due to inaccurate, incomplete or non-current wage rates or other factual unit costs and that all such Agreement adjustments shall be made within one (1) year following the end of the Agreement.

FURTHER AFFIANT SAYETH NAUGHT.

FIRM NAME:

By: _____

The foregoing instrument was acknowledged before me by who has produced _____ as identification or is personally known to me.

WITNESS my hand and official seal in the State and County last aforesaid this day of _____ 2010.

(SEAL)

Signature

Notary Name (typed or printed)

ATTACHMENT "C"

PUBLIC ENTITY CRIME AFFIDAVIT

A person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid/quote/proposal on a contract to provide goods or services to a public entity, may not submit a bid/quote/proposal on a contract with a public entity for the construction or repair of a public building or public work, may not submit bids/quotes/proposals on leases of rental property to a public entity, may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity, and may not transact business with any public entity in excess of the threshold amount provided in Section 287.017, for CATEGORY TWO for a period of 36 months from the date of being placed on the convicted vendor list.